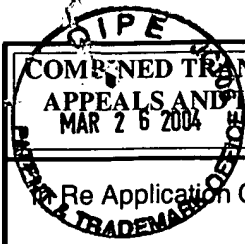


AF/2702



**COMBINED TRANSMITTAL OF APPEAL BRIEF TO THE BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Large Entity)**

Docket No.  
**APP 1256**

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3/5/04

Re Application Of: **John R. Wullert**

Serial No.	Filing Date	Examiner	Group Art Unit
<b>09/768,417</b>	<b>01/24/2001</b>	<b>Bui, Bing Q</b>	<b>2642</b>

Invention:  
**Method and Apparatus for Creating a Presence Monitoring Contact List with Dynamic Membership**

**RECEIVED**

**MAR 29 2004**

TO THE COMMISSIONER FOR PATENTS:

**Technology Center 2600**

This is a combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing an Appeal Brief.

Applicant(s) hereby request(s) an extension of time of (check desired time period):

- ☒ One month      ☐ Two months      ☐ Three months      ☐ Four months      ☐ Five months

from: 02/24/2004      until: 03/24/2004  
Date      Date

The fee for the Appeal Brief and Extension of Time has been calculated as shown below:

Fee for Appeal Brief: \$330.00  
Fee for Extension of Time: \$110.00

**TOTAL FEE FOR APPEAL BRIEF AND EXTENSION OF TIME: \$440.00**

The fee for the Appeal Brief and extension of time is to be paid as follows:

- ☐ A check in the amount of \_\_\_\_\_ for the Appeal Brief and extension of time is enclosed.
- ☒ Please charge Deposit Account No. **021822** in the amount of **\$440.00**
- ☐ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No.
- ☐ Any additional filing fees required under 37 C.F.R. 1.16.
- ☐ Any patent application processing fees under 37 CFR 1.17.
- ☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **021822**

03/29/2004 AMONDAF1 00000053 021822 09768417  
02 F:1251 110.00 DA

**COMBINED TRANSMITTAL OF APPEAL BRIEF TO THE BOARD OF PATENT  
APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME  
UNDER 37 C.F.R. 1.136(a) (Large Entity)**

Docket No.  
**APP 1256**

Re Application Of: **John R. Wullert**

Serial No.  
**09/768,417**

Filing Date  
**01/24/2001**

Examiner  
**Bui, Bing Q**

Group Art Unit  
**2642**

Invention:

**Method and Apparatus for Creating a Presence Monitoring Contact List with Dynamic Membership**

**TO THE COMMISSIONER FOR PATENTS:**

This combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition for extension of time under 37 CFR 1.136(a) is respectfully submitted by the undersigned:

  
Signature

Dated: **March 24, 2004**

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**MAR 29 2004**

**Technology Center 2600**

**David A. Hey (Reg. No. 32351)  
Telcordia Technologies, Inc.  
One Telcordia Drive 5G116  
Piscataway, NJ 08854-4157**

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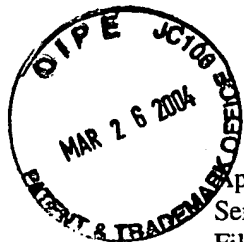
  
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**Michelle Masseau**

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CC:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Of: John Wullert  
Serial No: 09/768,417  
Filed: January 24, 2001

Title: Method and Apparatus for Creating a Presence Monitoring Contact List  
With Dynamic Membership

Art Unit: 2642  
Examiner: Bui, Bing Q

Attorney Docket No.: APP 1256

Commissioner of Patents  
Washington, D.C. 20231

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APPEAL BRIEF

Dear Sir:

The following Appeal Brief is respectfully submitted in connection with the above identified application in response to the Final Office Action dated September 24, 2003 rejecting claims 1-11.

Real Party In Interest

The real party in interest for the above identified application is the inventors, and the assignee of the invention, Telcordia Technologies, Inc.

Related Appeals and Interferences

There are no related appeals or interferences known to any of the appellants, the undersigned or the assignee which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1-11 remain pending. The final rejection of claims 1-11 is hereby appealed.

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Status of Amendments

The Appellants have not filed any amendments subsequent to the final rejection of September 24, 2003.

Summary of the Invention

The present invention provides improvements in the field of communications systems. In particular, the present invention provides a method and apparatus for providing dynamic presence information that makes return contact between parties easier and more likely to be accomplished on the first attempt. The present invention can nearly eliminate the problems associated with "telephone tag".

In accordance with the present invention, a calling party is an entity that initiates communication with a called party, and the called party is an entity that is the intended recipient of the calling party communication. Calling and called parties both include individuals, computers, and computer systems that communicate with other such entities. A contact event occurs when a calling party unsuccessfully attempts to communicate with a called party via a communication media, such as e-mail, instant messaging, telephone, and fax. For example, in the telecommunication context, a contact event occurs when an individual calls another individual that does not answer the call. By the time the initial called party is available, and tries to return the call, the initial calling party may no longer be available. Therefore, it is desirable that the initial called party be provided with dynamic presence information about the initial calling party, so that the return call is more likely to be completed and prolonged "telephone tag" can be avoided.

Of particular interest is the area of real-time communication systems, such as instant messaging. These systems enable a plurality of users to communicate with their "buddies" across a computer network by sending instant text messages back and forth in real time. In many of these systems, a user creates a personal "buddy list" that the user desires to instant message with. Many buddy lists displays limited availability information from which a user can determine if a particular buddy is available for instant messaging. For example, this availability information may include buddy availability status, such as whether a buddy is online, online but unavailable, or offline.

However, current presence information is limited in a number of ways. In particular, the buddy list is pre-defined and static, meaning that a user must know a unique user name for each buddy they want to add to their buddy list. Further, the buddy list will remain unchanged unless the user manually

makes modifications to the list. Moreover, buddies are limited to people, because other entities such as computer systems are not incorporated into or monitored by the client-server system. In addition, because the instant messaging system can handle only a limited amount of information, it is not possible to provide every user with the presence information for every other user simultaneously, and therefore the static entry process must be used. This prevents the user from discovering and communicating with new buddies. Finally, presence information is established based on manual input. In other words, instant messaging systems determine user presence information based on manual user actions, such as the user logging into the server system and the user changing his or her availability status directly through computer input. These manual processes are inherently unreliable and often lead a user to believe another individual is available when they are not, and vice versa.

The deficiencies noted above are overcome according to the present invention which provides a dynamic contact list that contains contact information about contact events, as well as presence information about the future availability of initial calling parties. The called party uses the dynamic contact list information to determine what, when, why, and how the calling party attempted to communicate with the called party, and the availability status of the calling party for return communication.

The dynamic contact list includes dynamic contact entries that indicate what, when, why, and how a calling party attempted to communicate with the called party. In addition, the dynamic contact list displays presence information about the availability of calling parties that may list the future availability of the calling party for return communication from the called party. The presence information may be updated dynamically based on presence monitoring of the calling party, through such means as calendar, daily schedule, or itinerary.

The apparatus used to implement the present invention is a client-server system that includes a call routing processor and presence processor which determine when entities attempt to communicate with other entities and when entities are available for communication, respectively. When a calling party unsuccessfully attempts to communicate with a called party, the routing processor reports the communication attempt to the called party data terminal, thereby notifying the called party of the contact event by creating a new contact event entry in the dynamic contact event list.

The routing processor also communicates with the presence processor and notifies it of the contact event. The presence processor then determines the presence status of the calling party, which is displayed to the called party, thereby notifying the called party with presence information about the calling party. The presence processor continues to monitor the presence status of the calling party

and reports any changes in the presence status of the calling party to the call routing processor. The call routing processor forwards this updated presence information to the called party, thereby dynamically updating the called party with the most recent presence information about the calling party.

By using the apparatus and method of the present invention, "telephone tag" can be avoided thus providing improvement in the area of telecommunications.

#### Issues

Issue 1) Whether claims 1-8 and 10-11 are properly rejected under 35 USC 102 (e) as being anticipated by Bajzath ET al (US Patent No. 6,144,644).

Issue 2) Whether claim 9 is properly rejected under 35 USC 103(a) as being obvious over Bajzath et al at applied to claim 1, and further in view of Bateman et al (US Patent No. 6,311,231).

#### Grouping of Claims

Appellants consider claims 1-11 to be separately patentable.

In particular, Claim 1 is an independent claim to a communications system according to the present invention wherein the availability of the calling party for return messages is provided to the called party. The system comprises a data terminal for each party, a message routing module and a presence processor. This system provides both calling party descriptive information and availability status information to the called party.

Claim 2 depends from claim 1, but includes a further limitation that the presence processor including circuitry for communicating with the data terminals and that the message routing module includes a datastore for storing status information.

Claim 3 depends from claim 1, but includes a further limitation that the communication system is a telephone system.

Claim 4 depends from claim 3, but includes a further limitation that the message routing module is a call agent.

Claim 5 depends from claim 4, but includes a further limitation that communications are through a packet-based communication network.

Claim 6 depends from claim 5, but includes a further limitation that a residential gateway is provided between each party and the packet-based communication network.

Claim 7 depends from claim 3, but includes a further limitation that the message routing module is a telephone switch and the presence processor is a service control point.

Claim 8 depends from claim 6, but includes a further limitation that the service control point and the data terminals are connected through a packet based network.

Claim 9 depends from claim 1, but includes a further limitation that the data terminals include a scheduling calendar and the presence monitor obtains status information from the scheduling calendar.

Claim 10 depends from claim 1, but includes a further limitation that the availability status information indicates when the calling party is available for a return communication.

Claim 11 depends from claim 1, but includes a further limitation that the presence processor dynamically updates availability status information.

Argument

Issue 1) Whether claims 1-8 and 10-11 are properly rejected under 35 USC 102(e) as being anticipated by Bajzath et al (US Patent No. 6,144,644).

The Examiner has rejected 1-8 and 10 -11 under 35 USC 102(e) as being anticipated by Bajzath et al. In particular, the Examiner indicates that “Bajzath et al teach a communication system for advising an intended called party recipient of the availability of the calling party sender for return messages (e.g., a telephone number where a calling party is available for receiving a return call from the called party...)”. The Examiner continues by pointing out various elements of the system shown in Bajzath et al. The only pertinent portion of the Examiner’s statements indicate that the system of Bajzath et al includes a “presence processor (i.e., “SCP 145”) connected to said data terminal of said calling and called parties and obtaining from a calling party descriptive information (e.g., “name” of the calling party) and availability status information of said calling party (e.g., a telephone number where a calling party is available for receiving a return call from the called party” (emphasis in original).

The Examiner also notes various portions of Bajzath et al pertaining to dependent claims 2-8, 10 and 11, but all such comments are moot as will be discussed more fully below.

These rejections are respectfully traversed and it is respectfully submitted that the present invention as defined by the appealed claims 1-8 and 10-11 is patentably distinct from Bajzath et al.

In particular, as was specifically pointed out in the response to the first office action, present claim 1 makes a clear distinction between “descriptive information” and “availability status information”. A key feature of the present invention is the delivery to the called party of availability status information, which informs the called party when the calling party will be available for a return call. A further key element of the present invention is that the calling party status availability information can be dynamically updated.

Conversely, the system of Bajzath et al provides only standard “caller ID” type of information, e.g. return phone number. As noted by the Examiner, this provides “where” the calling party can be reached. Contrary to the Examiner’s assertions, Bajzath et al does not teach or suggest, nor even mention the possibility of providing availability status information of the calling party.



In this light, it is noted that the Examiner clearly recognizes this deficiency in the response to the arguments set forth in the amendment after the first office action, by noting that Bajzath et al provides “a telephone number where a caller is available for receiving a return call from the called party” (emphasis in original). The fact that the Examiner “considers” this to be the availability status information of the present invention is of no moment and is clearly in error. No where does Bajzath et al suggest, and the Examiner has not indicated any portion of Bajzath et al, that teaches providing “availability status information” as set forth in the present claims. Therefore, Bajzath et al utterly fails to teach the present invention of providing “availability status information” to the called party.

It is respectfully requested that the rejection of claims 1-8 and 10-11 under 35 USC 102(e) as being anticipated by Bajzath et al, be reversed by the Board of Appeals and withdrawn.

Issue 2) Whether claim 9 is properly rejected under 35 USC 103(a) as being obvious over Bajzath et al at applied to claim 1, and further in view of Bateman et al (US Patent No. 6,311,231).

The Examiner has rejected claim 9 under 35 USC 103(a) as being unpatentable over Bajzath et al in view of Bateman et al. In particular, the Examiner cites Bateman et al to teach a multimedia message manager that allows scheduling of call back to a customer. The Examiner then concludes that it would be obvious to use the functions of Bateman et al in the system of Bajzath et al.

These rejections are respectfully traversed and it is respectfully submitted that the present invention as defined by claim 9 is patentably distinct from Bajzath et al in view of Bateman et al.

It is respectfully submitted that Bateman et al fails to overcome the deficiencies of Bajzath et al noted above. In particular, Bateman et al does not teach, suggest or even mention the possibility of providing “availability status information” of the calling party as defined by the present claims.

Therefore, it is respectfully submitted that Bajzath et al in view of Bateman et al fails to render obvious the present invention, particularly as set forth in instant claim 9.

It is respectfully submitted that the rejection of claim 9 under 35 USC 103(a) as being obvious over Bajzath et al at applied to claim 1, and further in view of Bateman et al can not be supported and must be withdrawn. The Board of Appeals is respectfully requested to reverse this rejection.

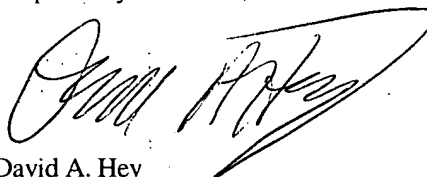
Conclusion

For the foregoing reasons, Appellants respectfully submit that the Examiner's final rejection of all of the pending claims is not properly founded in law and that the appealed claims are patentably distinct from the references cited. In particular, it is submitted that claims 1-8 and 10-11 are patentably distinct from Bajzath et al. Further, it is submitted that claim 9 is patentably distinct from Bajzath et al in view of Bateman et al.

In light of the above, it is respectfully requested that the Board of Appeals reverse the Examiner's final rejection of all of the pending claims on appeal.

A copy of the claims on appeal, i.e. claim 1-11 is found in the attached appendix. To the extent necessary, Appellants petition for an extension of time under 37 CFR 1.136 by separate letter.

Respectfully submitted,



David A. Hey  
Attorney for Appellant  
Reg. No. 32,351  
(732) 699-3680

Enclosures:

Two (2) Additional Copies of this Appeal Brief

Telcordia Technologies, Inc.  
One Telcordia Drive  
Piscataway, NJ 08854-4157

## APPENDIX

### Claims On Appeal

1. A communication system for advising an intended called party recipient of the availability of a calling party sender for return messages, said system comprising:
  - a data terminal associated with each of said calling and called parties,
  - a message routing module for interconnecting said calling and called parties; and
  - a presence processor connected to said data terminal of said calling and called parties and obtaining from a calling party descriptive information and availability status information of said calling party, said message routing module communicating with said presence processor in response to said calling party not completing a call to said called party and said presence processor in response thereto forwarding to the data terminal of said called party said descriptive information and said availability status information of said calling party.
2. The communication system in accordance with claim 1, wherein said presence processor includes circuitry for communicating with said data terminals and said message routing module, a datastore for storing status information, and status processor.
3. The communication system in accordance with claim 1 wherein said communication system is a telephone system.
4. The communication system in accordance with claim 3, wherein said message routing module is a call agent.
5. The communication system in accordance with claim 4, wherein communications between said call agent, said presence processor, and said calling and called parties, including said data terminals, are through a packet-based communication network.
6. The communication system in accordance with claim 5, further including a residential gateway between each of said calling and called parties and said packet-based communication network.
7. The communication system in accordance with claim 3, wherein said message routing module is a telephone switch and said presence processor is a service control point.

8. The communication system in accordance with claim 6, further including a packet based network connecting said service control point to said data terminals of said calling and called parties.
9. The communication system in accordance with claim 1, wherein said data terminal includes a scheduling calendar, said presence processor obtaining said availability status information from said scheduling calendar.
10. The communication system in accordance with claim 1, wherein said availability status information indicates the calling party's availability for return communication from the called party.
11. The communication system in accordance with claim 1, wherein said presence processor is operative to dynamically update said availability status information.